

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

KEVIN MICKENS,)
Plaintiff,) Civil Action No. 10 – 1754
v.) District Judge Joy Flowers Conti
Defendants.) Chief Magistrate Judge Lisa Pupo Lenihan

MEMORANDUM ORDER

This suit commenced with the receipt of the motion of plaintiff Kevin Mickens (“Plaintiff”) to proceed *in forma pauperis*. (ECF No. 1.) The motion was granted (ECF No. 2) and Plaintiff’s complaint was filed on January 12, 2011 (ECF No. 4). This case was referred to a magistrate judge for all pretrial proceedings in accordance with the Magistrate Judge’s Act, 28 U.S.C. § 636(b)(1), and Local Rules of Court for Magistrate Judges.

Plaintiff filed an amended complaint (ECF No. 23) and then a second amended complaint (ECF No. 30). Defendants Lindley, Martin, and Folino (“Defendants”) filed a motion to dismiss the second amended complaint (ECF No. 32), and although Plaintiff was given an opportunity to respond to the motion, he filed nothing in opposition. On March 19, 2012, the magistrate judge entered a Report and Recommendation (ECF No. 34) recommending that Defendants’ motion be granted and that Plaintiff’s claims against the Defendants be dismissed with prejudice. Plaintiff was served with the Report and Recommendation at his listed address and advised that he had

until April 5, 2012 to file written objections. As of the date of this order, no objections have been filed.

After *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, the following order is entered.

AND NOW, this 13th day of April, 2012,

IT IS HEREBY ORDERED that the Motion to Dismiss filed by Defendants Lindley, Martin, and Folino (ECF No. 32) is **GRANTED** and Plaintiff's claims against these Defendants are dismissed with prejudice.

IT IS FURTHER ORDERED that the Report and Recommendation dated March 19, 2012 (ECF No. 34) is **ADOPTED** as the opinion of the Court.

IT IS FURTHER ORDERED that Plaintiff is given thirty (30) days from the date of this order to notify the Court as to the identities of the "Unknown C.E.R.T. Team Members of SCI-Greene," the remaining defendants in this action, so that these defendants may be served with Plaintiff's second amended complaint. If Plaintiff fails to identify these currently fictitious defendants within the time allotted then the Court will enter an order dismissing the defendants from this action and closing this case.

AND IT IS FURTHER ORDERED that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Plaintiff has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

By the Court:

/s/ Joy Flowers Conti
Joy Flowers Conti
United States District Judge

cc: Kevin A. Mickens
1277 Noblestown Road
Oakdale, PA 15071